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PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
6646-101NR

First named inventor: RONALD A. KATZ

Application No.: 09/827,614

Art Unit: 2643

Filed: April 5, 2001

Examiner: Stella Woo

Title: TELEPHONIC-INTERFACE STATISTICAL ANALYSIS SYSTEM

RECEIVED

SEP 17 2003

OFFICE OF PETITIONS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1300.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Amendment & Response to Office Action (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ 110.00 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Sept. 10, 2003

Date

Telephone (310) 247-8191
Number: _____



Signature

Byard G. Nilsson, Reg. No. 17,350

Typed or printed name

A2D, L.P.

Address

9220 Sunset Boulevard, Suite 315, Los Angeles, CA 90069

Address

Enclosures: ☒ Fee Payment

☒ Reply

☒ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Transmittal Form; Declarations of Reena Kuyper, Byard G. Nilsson & Laura Harmon; IDS.

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

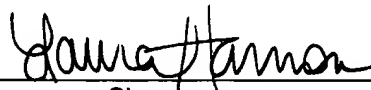
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Sept. 10, 2003

Date



Signature

Laura Harmon

Type or printed name of person signing certificate

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OFFICE OF PETITIONS



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Ronald A. KATZ

Serial No.: 09/827,614

Filed: April 5, 2001

For: TELEPHONIC-INTERFACE
STATISTICAL ANALYSIS
SYSTEM

) Group Art Unit: 2643

) Examiner: S. Woo

) Office Action mailed: Oct. 17, 2002

) Attorney Docket No.: 6646-101NR

) Customer No.: 50-1636

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OFFICE OF PETITIONS

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION AND STATEMENT FOR REVIVAL UNDER 37 C.F.R. § 1.137(b)

Dear Sir:

Applicant hereby petitions under 37 C.F.R. § 1.137(b) to revive the subject patent application which was unintentionally abandoned as stated by a Notice, Paper No. 8, dated June 3, 2003 indicating Applicant's failure to timely file a reply to the Office Letter mailed October 17, 2002. The circumstances of the unintentional abandonment are set forth below.

On October 17, 2002, an Office Action (unnumbered, hereinafter referred to as "the Office Action") in the subject case was mailed from the U.S. Patent and Trademark Office and in due course received and stamped as "received" on October 21, 2002. Consequently, the final deadline for a response to the Office Action was April 17, 2003.

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this document (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450.

Date

9/10/03

Laura Harmon

Laura Harmon

Application No.:

09/827,614

Petition dated:

September 10, 2003

Reply to Notice of Abandonment of:

June 3, 2003

On June 3, 2003, a Notice of Abandonment was mailed from the U.S. Patent and Trademark Office and in due course was received and stamped "received" on June 9, 2003. The abandonment, which resulted from records for Applicant indicating that a response had been filed to the Office Action, was unintentional as detailed below and accordingly Applicant petitions the revival of the subject application to enable further prosecution thereof pursuant to a response provided herewith.

Upon receipt of the Office Action in this office on October 21, 2002, it was stamped as received and initialed "DKD" by a former employee, Deanne Dale. Concurrently, in accordance with her responsibility, apparently she docketed the action for a three-month initial deadline with the usual reminders. Although, not directly related, the fact is noteworthy that Deanne Dale was subsequently terminated for causes including timely discovered docketing errors which occurred in spite of substantial instruction, background and training in that area.

It is also noteworthy that Reena Kuyper (Affidavit attached) recalls working on an Amendment for responding to the Office Action. However, no record of any such work has been found in the computer records of Deanne Dale.

In due course, prior to April 17, 2003, Laura Harmon (Declaration attached) checked the computerized docket records which she found to indicate that a response had been filed to the Office Action in the subject application. Consequently, she concluded the application was in order.

On or about May 15, 2003, Examiner Stella Woo left a message with Deanne Dale stating that no response to the October Office Action had been received and accordingly expressing concern with respect to abandonment. The message was received by Laura Harmon (Harmon Affidavit) as a result of which she, again, checked the docketing records on the subject application and, again, found an indication that a response had been filed. Ms. Harmon then checked the file wrapper of the application. However, she was unable to locate a copy of any

Application No.:
Petition dated:
Reply to Notice of Abandonment of:

09/827,614
September 10, 2003
June 3, 2003

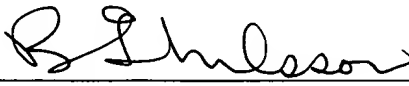
Amendment or other response to the Office Action. As a result, Ms. Harmon consulted with Reena Kuyper and Byard Nilsson (representatives of Applicant) and, as a result, an extensive search was launched for a copy of any response to the Office Action.

On or about June 9, 2003, a Notice of Abandonment was received (executed by Examiner Stella Woo) indicating the lack of a reply to the October Office Action. The search for the missing response has been pursued since the date of Examiner Woo's informal notification; however, with unavoidable delays primarily involving the demands of current litigation (Verizon California Inc., a California corporation, v. Ronald A. Katz Technology Licensing, L.P., a California limited partnership, U.S. Dist. Ct., C.D. Cal., Case No. 01-CV-09871 RGK) along the work loads and vacations of involved personnel (see declarations of Nilsson, Kuyper and Harmon).

In the final analysis, Applicant's representatives concluded that if a response to the Office Action of October was prepared, it was unlikely that a probative copy would ever be located. Consequently, papers were prepared including this document, a response to the Office Action, declarations and formal papers to petition revival under 37 CFR § 1.137(b). The abandonment was clearly unintentional and revival is respectfully requested.

Respectfully submitted,

Dated: 9/10/03

By: 
Byard G. Nilsson
Registration No. 17,350

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